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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,383	11/19/2003	Robert Teberg	1713973	7520
24240 7590 08/10/2007 CHAPMAN AND CUTLER 111 WEST MONROE STREET CHICAGO, IL 60603				
			EXAMINER MEYERS, MATTHEW S	
			ART UNIT 3629	PAPER NUMBER
			MAIL DATE 08/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/717,383	Applicant(s) TEBERG ET AL.	
	Examiner Matthew S. Meyers	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) ~~7 and 8~~ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's communication on 11/19/2003, wherein claims 1-6 are currently pending and claims 7-8 have been withdrawn with traverse.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, drawn to a method of facilitating "whistle-blowing" by one or more anonymous individuals, classified in class 705, subclass 30.
 - II. Claims 7-8, drawn to a method of discouraging fraud and other misconduct in and among public and private bodies by facilitating "whistle-blowing" by persons who know of the misconduct but want to remain anonymous, classified in class 705, subclass 01.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are directed to related distinct methods. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are distinct from each other. Group I is distinct from Group II in that it requires an independent service organization, whereas Group II does not. Group II only requires an organization, which could mean an in-house organization.

Additionally, Group II accepts information as to specific instances of fraud and

misconduct, whereas Group I collects no such information. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with John R. Crossan on 7/31/07 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-6.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 7-8 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Priority

6. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 1-6** are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the

steps. See MPEP § 2172.01. The omitted steps are: Determining whether a reward on behalf of the victim. The claims as written, result in a reward every time a person makes a report.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1-6** are rejected under 35 U.S.C. 102(b) as being anticipated by Shoo (US 5,895,450).

11. With respect to **Claim 1**:

Shoo discloses a method of facilitating "whistle-blowing" by one or more anonymous individuals, the method comprising the steps of:

operating an independent service organization to which a person or persons may anonymously report fraud, misconduct, error, and other victimization of and by other persons or entities (Shoo col. 1, lines 56-62, "the present invention provides a method and apparatus for handling complaints that allows complainants to lodge anonymous complaints against subjects, informs the subjects of the complaints, permits the subjects to respond to the complaints, encourages settlements of the complaints and holds the parties to the complaints accountable for their conduct while attempting to resolve the complaints."),

negotiating with the victimized or victimizing person or entity to obtain a reward on behalf of the person or persons making the report (Shoo col. 5, lines 12-19, "...it can be used as a private message area or as a password for entry into some type of private forum for negotiations between the complainant and the subject. This allows the complainant and subject to privately negotiate a settlement to the dispute without requiring the complainant to meet the subject face-to-face.", and

collecting a reward from the victimized person or entity either directly for the reporting person or persons anonymously or indirectly by donating it on behalf of the reporting person or persons to a specified nonprofit or governmental entity (Shoo col. 12, lines 15-24, "At any time during the use of the apparatus, the program may require any of the users to pay a fee. For example, the program may require a user to pay a fee before posting a complaint or require a subject to pay a fee before posting a response to a complaint. A portion of these collected fees can be used to pay or reward, and thus encourage judges, jurors, and third party witnesses to participate in a complaint resolution process.").

12. With respect to **Claim 2**:

Shoo discloses wherein the reward is collected and passed to the specified entity on behalf of the anonymous reporting person or persons, and the reward is acknowledged by the specified entity's publishing notice of the donation by the service organization with a code chosen by one of the organization and the reporting person or persons, thereby giving notice of completion of the whistle blowing process (Shoo col. 2,

lines 7-13, "The central computer is also programmed to provide public access to the data records to permit viewing of the corresponding complaints, responses, and settlements for allowing other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner.").

13. With respect to **Claim 3**:

Shoo discloses wherein anonymous communication is provided between the service organization and the reporting person or person by way of postings on a publicly accessible bulletin board of the service organization (Shoo col. 2, lines 7-13, "The central computer is also programmed to provide public access to the data records to permit viewing of the corresponding complaints, responses, and settlements for allowing other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner.").

14. With respect to **Claim 4**:

Shoo discloses wherein the bulletin board is an electronic one that is accessible over a global communications network and the reporting person or person selects his, her, or its own identifying code (Shoo col. 2, lines 63-66, "The method of the present invention is preferably implemented with a programmed central computer, a plurality of access terminals, and a communications network coupling the central computer with the access terminals." and col. 6, lines 43-46, "the apparatus 10 does not disclose the actual names of the complainants to the subjects so that the complainants may remain anonymous. This further encourages users to file complaints with the apparatus.").

15. With respect to **Claim 5**:

Shoo discloses wherein the information is offered to the victimized person or entity and a reward is negotiated by the organization with the victimized person or entity for providing the information (Shoo [abs], "...a routine for negotiating a settlement of the complaint.").

16. With respect to **Claim 6**:

Shoo discloses wherein the organization retains a fee from the reward monies and transfers only the balance to reporter or the specified entity (Shoo col. 12, lines 15-24, "At any time during the use of the apparatus, the program may require any of the users to pay a fee. For example, the program may require a user to pay a fee before posting a complaint or require a subject to pay a fee before posting a response to a complaint. A portion of these collected fees can be used to pay or reward, and thus encourage judges, jurors, and third party witnesses to participate in a complaint resolution process.")

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker et al. (Pub. No.: US 2001/0034708).

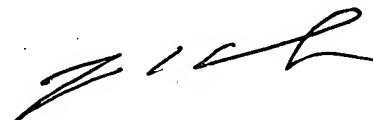
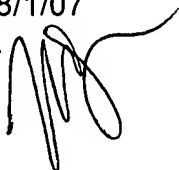
Art Unit: 3629

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Meyers whose telephone number is (571)272-7943. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSM
8/1/07



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